

§ 435.114

(b) [Reserved]

[58 FR 4926, Jan. 19, 1993, as amended at 59 FR 43052, Aug. 22, 1994]

§ 435.114 Individuals who would be eligible for AFDC except for increased OASDI income under Pub. L. 92-336 (July 1, 1972).

The agency must provide Medicaid to individuals who meet the following conditions:

(a) In August 1972, the individual was entitled to OASDI and—

(1) He was receiving AFDC; or

(2) He would have been eligible for AFDC if he had applied, and the Medicaid plan covered this optional group; or

(3) He would have been eligible for AFDC if he were not in a medical institution or intermediate care facility, and the Medicaid plan covered this optional group.

(b) The individual would currently be eligible for AFDC except that the increase in OASDI under Pub. L. 92-336 raised his income over the limit allowed under AFDC. This includes an individual who—

(1) Meets all current AFDC requirements except for the requirement to file an application; or

(2) Would meet all current AFDC requirements if he were not in a medical institution or intermediate care facility, and the current Medicaid plan covers this optional group.

§ 435.115 Individuals deemed to be receiving AFDC.

(a) The Medicaid agency must provide Medicaid to individuals deemed to be receiving AFDC, as specified in this section.

(b) The State must deem individuals to be receiving AFDC who are denied a cash payment from the title IV-A State agency solely because the amount of the AFDC payment would be less than \$10.

(c) The State may deem participants in a work supplementation program to be receiving AFDC under section 414(g) of the Act. This section permits States, for purposes of title XIX, to deem an individual and any child or relative of the individual (or other individual living in the same household) to be receiving AFDC, if the individual—

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(1) Participates in a State-operated work supplementation program under section 414 of the Act; and

(2) Would be eligible for an AFDC cash payment if the individual were not participating in the work supplementation program.

(d) The State must deem to be receiving AFDC those individuals who are denied AFDC payments from the title IV-A State agency solely because that agency is recovering an overpayment.

(e) The State must deem to be receiving AFDC individuals described in section 473(a)(1) of the Act—

(1) For whom an adoption assistance agreement is in effect under title IV-E of the Act, whether or not adoption assistance is being provided or an interlocutory or other judicial decree of adoption has been issued; or

(2) For whom foster care maintenance payments are made under title IV-E of the Act.

(f) The State must deem an individual to be receiving AFDC if a new collection or increased collection of child or spousal support under title IV-D of the Social Security Act results in the termination of AFDC eligibility in accordance with section 406(h) of the Social Security Act. States must continue to provide Medicaid for four consecutive calendar months, beginning with the first month of AFDC ineligibility, to each dependent child and each relative with whom such a child is living (including the eligible spouse of such relative as described in section 406(b) of the Social Security Act) who:

(1) Becomes ineligible for AFDC on or after August 16, 1984; and

(2) Has received AFDC for at least three of the six months immediately preceding the month in which the individual becomes ineligible for AFDC; and

(3) Becomes ineligible for AFDC wholly or partly as a result of the initiation of or an increase in the amount of the child or spousal support collection under title IV-D.

(g)(1) Except as provided in paragraph (g)(2) of this section, individuals who are eligible for extended Medicaid lose this coverage if they move to another State during the 4-month period. However, if they move back to and re-establish residence in the State in